

Notice of Allowability

Application No.

10/099,772

Examiner

Peter J. Vrettakos

Applicant(s)

LONG ET AL.

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Remarks 12-9-05.
2. ☒ The allowed claim(s) is/are 1, 4-15, 18-20, 22, 23, 25, 27, 29 and 30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gerry Gressel on 1-16-06.

The application has been amended as follows:

Claim 1. A method of treating tissue within a patient, said method comprising the steps of:

- providing at least one flexible instrument having a distal end; the instrument adapted to grasp or cut tissue;

- providing at least one channel for accessing a treatment site;

- providing a pivotably supported instrument guide;

- extending at least a portion of the instrument from a distal end of the channel to access the treatment site, such that the distal end of the flexible instrument extends distally beyond the distal end of the channel;

- constraining motion of the distal end of the instrument along a predetermined path at the treatment site with the pivotably supported instrument guide while simultaneously restricting twisting of the flexible instrument about its longitudinal axis

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with the pivotably supported instrument guide and permitting bending of the flexible instrument about an axis perpendicular to the longitudinal axis; and grasping or cutting tissue with the instrument.

Claim 14. A method of treating tissue within a patient, said method comprising the steps of:

- providing a first flexible instrument having a distal end, wherein the first instrument is adapted to cut or grasp tissue;

- providing a second flexible instrument having a distal end;

- providing a first channel for accessing a treatment site;

- providing a second channel for accessing a treatment site;

- providing a pivotably supported instrument guide;

- advancing the first instrument from a distal end of the first channel to a treatment site within the patient while simultaneously restricting twisting of the flexible instrument about its longitudinal axis with the pivotably supported instrument guide and permitting bending of the flexible instrument about an axis perpendicular to the longitudinal axis;
- advancing the second instrument from a distal end of the second channel to the treatment site; and

- cooperating motion of the distal ends of the first and second instruments such that the distal ends follow a predetermined path.

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Claim 20. A method of treating tissue within a patient, said method comprising the steps of:

- providing an endoscope having at least one instrument channel;
- providing a pivotably supported instrument guide;
- disposing the endoscope in a body lumen;
- advancing a flexible instrument adapted for grasping or cutting tissue from the distal end of the instrument channel to access a treatment site in the body lumen;
- constraining motion of the distal end of the flexible instrument along a desired path distally of the distal end of the instrument channel with the pivotably supported instrument guide as the instrument is advanced from the distal end of the instrument channel while simultaneously restricting twisting of the flexible instrument about its longitudinal axis with the pivotably supported instrument guide and permitting bending of the flexible instrument about an axis perpendicular to the longitudinal axis; and
- cutting or grasping tissue with the flexible instrument.

Claim 29. A method of treating tissue within a patient, said method comprising:

- disposing a relatively rigid pivotably supported member for guiding motion of a medical instrument at the distal end of an endoscope;

- inserting a relatively flexible instrument having a distal end through an instrument channel of said endoscope;

connecting the relatively flexible instrument to the relatively rigid pivotably supported member;

inserting the relatively rigid pivotably supported member and the relatively flexible instrument into the patient; and

constraining motion of the distal end of the relatively flexible instrument with the relatively rigid pivotably supported member without substantial bending of the relatively rigid member; wherein motion of the distal end of the relatively flexible instrument is constrained along a desired path as the relatively flexible instrument is advanced from the distal end of the instrument channel.

The following is an examiner's statement of reasons for allowance: The prior art neglects to disclose a pivotably supported instrument guide/member as disclosed in each of the application's independent claims (which were amended to include the dispositive language.) This pivotably supported instrument guide can be that seen in the Applicant's figures for example in its "down" configuration figure 2 element 74 and in its "up" configuration in figure 3 element 74. Further, the claims also include patentable language toward *simultaneous* restriction of twisting of the flexible instrument and allowance of bending of the flexible instrument.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

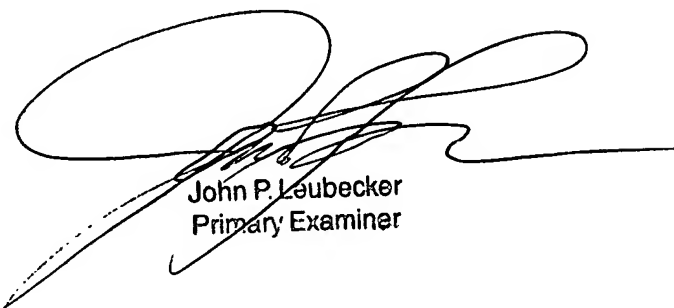
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pete Vrettakos
January 18, 2006

PV



John P. Leubecker
Primary Examiner